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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/037,451 | 12/20/2001 | Gabriel Hamman Adam | KCC-15,872 | 4840 |
| 35844 | 7590 | 06/29/2004 | EXAMINER | |
| PAULEY PETERSEN & ERICKSON 2800 WEST HIGGINS ROAD HOFFMAN ESTATES, IL 60195 | | | COLE, ELIZABETH M | |
| | | | ART UNIT | PAPER NUMBER |

1771

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/037,451 | ADAM ET AL. | |
| | Examiner | Art Unit | |
| | Elizabeth M. Cole | 1771 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,11,13,14 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23,25 and 26 is/are allowed.
- 6) ☒ Claim(s) 1,13, 21,22 and 24 is/are rejected.
- 7) ☒ Claim(s) 11 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1/2/04</u> | 6) <input type="checkbox"/> Other: . |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/20/04 has been entered.
2. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13 depends from a cancelled claim.
3. The indicated allowability of claim 21 in the telephone interview of 4/6/04 is withdrawn in view of the newly cited reference to Everett et al, U.S. patent No. 6,437,214.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1, 21, 22, 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomita et al, U.S. Patent No. 5,618,610 in view of Everett et al, U.S. Patent No. 6,437,214. Tomita et al, U.S. Patent No. 5,618,610. Tomita et al discloses a fibrous material comprising a plurality of fibers which are distributed across the x-y plane of the fabric into zones which have higher and lower basis weights. The portions having higher basis weights are thicker than the rest of the fabric. There is no discrete or disturbed material boundaries in that whole fibers exist

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between the portions. See figs 1-3 as well as col. 2, lines 15-29. Tomita et al differs from the claimed invention because Tomita does not disclose having upper and lower areas as distinguished in the Z direction of the web, with greater hydrophilicity in the lower areas of the web, (claims 1 and 24), having zones of a low concentration of absorbent material and a zone of high concentration of absorbent material alternating in the machine direction, (claim 21) or in the cross direction (claim 22). Everett et al teaches that fibrous material suitable for use in absorbent products which comprises a superabsorbent material may vary the amount of superabsorbent within a given layer so that it varies across the layer, (see for example fig 9), through the thickness of the layers, (see for example fig. 8), or so that more of the superabsorbent is at the bottom portion of a layer, (see col. 14, lines 24-62). If the layer had more superabsorbents at the bottom portion it would necessarily be more hydrophilic in the bottom portion as well. It would have been obvious to one of ordinary skill in the art to have employed the varying concentration of superabsorbent within the fibrous material of Tomita et al. One of ordinary skill in the art would have been motivated to employ the varying concentration of superabsorbent by the teaching of Everett that this enhances the efficiency and absorbency of the absorbent product.

6. Claim 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Claims 11 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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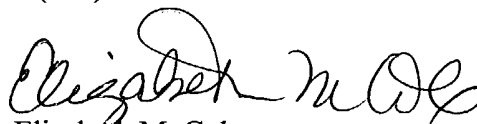
8. Claims 23, 25-26 are allowed.
9. Applicant's arguments have been considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.



Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c